

101 Notification Of Consulate For Minor Foreign Nationals

Major objectives:

Child and Family Services recognizes that when a juvenile court proceeding for child abuse, neglect, or dependency involves a minor who is a foreign citizen, the appropriate consulate has a direct interest and shall be notified by Child and Family Services of the proceedings.

Applicable Law

Utah Code Ann. [§62A-4a-412](#). Reports and information confidential.

The Vienna Convention on Consular Relations is a multinational treaty ratified by the United States in 1969. The part of the treaty applicable to these practice objectives states:

Article 36

COMMUNICATION AND CONTACT WITH NATIONALS OF THE SENDING STATE

1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State:

(a) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State;

(b) if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this sub-paragraph; (c) consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgment. Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action.

2. The rights referred to in paragraph 1 of this Article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under this Article are intended.

Procedures

- A. Child and Family Services shall notify a consulate representative of court hearings in which Child and Family Services is a party and a minor who is a foreign citizen is a party. Whenever possible, timely notice will be provided in advance of the hearing to enable attendance by the representative.
- B. Child and Family Services representatives have no obligation to notify the consulate if Child and Family Services is not a party to the juvenile court proceeding.
- C. Reports of child abuse, neglect, or dependency, as well as any other information in the possession of Child and Family Services, obtained as the result of a report of child abuse, neglect, or dependency, are confidential and may only be made available to a consulate representative in accordance with Utah law and specifically Utah Code Ann. [§62A-4a-412](#). Confidential information may be provided to the consulate representative if a written authorization to release information is provided to Child and Family Services from the subject of the juvenile court action or, if a minor, from their parent or by written order of the juvenile court, or other court ordered release.
- D. If the consular representative acts as an agent for a relative other than the parent, the Child and Family Services caseworker shall work closely with the consular representative to determine the best interest of the child.